

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

FRANCESCA VIOLA,)	
)	
Plaintiff)	
)	
v.)	CIVIL ACTION
)	NO. 1:21-CV-10426-LTS
JOSHUA BENTON and PRESIDENT AND)	
FELLOWS OF HARVARD COLLEGE,)	
)	
Defendants.)	
)	

**JOINT MOTION TO MODIFY AUGUST 17, 2021 SCHEDULING ORDER AND
REQUEST STATUS CONFERENCE**

Now come the Parties, by and through counsel, and jointly move that the August 17, 2021, Scheduling Order be modified as set forth below.

A. Proposed Modified Schedule

1. Fact Discovery

a. All depositions, other than expert depositions, must be completed by **May 28, 2022** (extended from February 28, 2022).

b. All requests for admissions must be served by **June 30, 2022** (extended from March 31, 2022).¹

c. All discovery, other than expert discovery, must be completed by **July 31, 2022** (extended from April 29, 2022).

2. Expert Discovery

a. Trial experts for the party with the burden of proof must be designated, and the

¹ The Scheduling Order provides that requests for admissions to be served by March 31, 2021, but given that the Scheduling Order was not entered until August 17, 2021, the parties believe the original deadline was intended to be March 31, 2022.

information contemplated by Fed. R. Civ. P. 26(a)(2) must be disclosed by **August 1, 2022** (extended from May 31, 2022).

b. Rebuttal trial experts must be designated, and the information contemplated by Fed. R. Civ. P. 26(a)(2) must be disclosed by **September 15, 2022** (extended from July 15, 2022).

c. All trial experts must be deposed by **November 1, 2015** (extended from September 15, 2022).

3. Dispositive Motions

Dispositive motions, such as motions for summary judgment or partial summary judgment and motions for judgment on the pleadings, must be filed by **November 15, 2022** (extended from October 14, 2022) with the opposition due thirty days thereafter.

B. Reasons for Request

Since the August 17, 2021, Scheduling Order, the parties have been engaged in motion practice and third-party discovery that has narrowed the claims at issue in the case.

On August 25, 2021, defendants filed a motion to dismiss the third-party beneficiary claim asserted in the Second Amended Complaint filed by plaintiff on July 30, 2022 (Dkts. 60, 71).

On September 14, 2021, plaintiff filed a motion for leave to file a Third Amended Complaint (Dkt. 74). On October 14, 2021, defendants filed an opposition to plaintiff's motion for leave to file a Third Amended Complaint (Dkt. 84). On December 1, 2021, the Court entered an order denying plaintiff's motion to file a Third Amended Complaint (Dkt. 86).

During this same time period, defendants obtained third-party discovery from Disqus, Inc. concerning plaintiff's "truthseeker" account.

On February 4, 2022, plaintiff filed a Third Amended Complaint (with defendants' consent) (Dkt. 92). Unlike its predecessor, the Third Amended Complaint does not contain claims for libel, defamation by implication, or tortious interference with contractual relations. The nine counts asserted in this action at the time the case was transferred to this Court thus have been reduced to

two claims: one for promissory estoppel and one for intentional infliction of emotional distress.

The parties respectfully submit that the extent to which they have narrowed the issues in the case prior to the start of depositions constitutes good cause for the requested extension of the discovery schedule. The parties are engaged in discussions concerning the proper scope of discovery with respect to the two remaining claims and, for that reason, ask that the Court schedule a status conference to address those remaining discovery issues.

WHEREFORE, the parties request that the Court grant their joint motion to modify the August 17, 2021 Scheduling Order and request for a status conference.

Dated: February 18, 2022

FOR THE PARTIES:

***PRESIDENT AND FELLOWS OF
HARVARD COLLEGE***

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CERTIFICATE OF SERVICE

I certify that on the date listed below, I electronically filed the foregoing document with the Court using the CM/ECF system, which sent notice of the filing to all registered participants.

Dated: February 18, 2022

/s/ Andrew M. Buttarro
Andrew M. Buttarro